

CUSTOMER NO.: 24498
Serial No. 10/584,686
Response to Office Action dated 4/09/08
Response dated: 6/11/08

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JUN 11 2008 **PD040005**

Amendments to the Drawings

The attached drawing sheet includes changes to Fig. 1. The replacement sheet, which includes Fig. 1, replaces the original drawing sheet including Fig. 1.

In the Replacement drawing sheet, a legend - -Prior Art- - has been to the drawing of FIG. 1.

Attachment: Replacement Sheet.

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In the First Office Action, the Examiner noted that claims 1-11 are pending in the application and that claims 1-11 stand rejected. By this response, claims 12-13 have been added, claims 10-11 have been cancelled and claims 1 and 3 are amended to correct for informalities pointed out by the Examiner and to more clearly define the invention of the Applicant.

In view of the amendments presented above and the following discussion, the Applicant respectfully submits that none of these claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102 or rendered obvious under the provisions of 35 U.S.C. § 103. Furthermore, the Applicant also submits that all of these claims now satisfy the requirements of 35 U.S.C. §112. Thus, the Applicant respectfully submits that all of these claims are now in allowable form.

Objections**A. Drawings**

The Examiner objected to the Applicant's drawings because Figure 1 should be designated by a legend -- Prior Art -- because only that which is old is illustrated.

In response, the Applicant has amended Fig. 1 to include the legend -- Prior Art -- as requested by the Examiner. Having done so, the Applicant respectfully submits that the basis for the Examiner's objection of the Applicant's drawings has been removed and requests that the objection be withdrawn.

B. Claims

The Examiner objected to the Applicant's claims 1-11 because claim 1 recites "determining the type of abnormal region; and measuring the radial extension of the abnormal region perpendicular to a track direction" and that this recitation lacks a clear interrelationship between the claimed steps.

In response, the Applicant has amended claim 1 to recite "measuring the radial extension of the abnormal region perpendicular to track direction; and determining the type of the abnormal region based on the measured radial extension" as suggested by the Examiner. Having done so, the Applicant respectfully submits that the basis for the Examiner's objection of the Applicant's claims has been removed and requests that the objection be withdrawn.

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Rejections

A. 35 U.S.C. § 112

The Examiner rejected claims 10 and 11 under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement. The Examiner alleges that the claims contain subject matter which was not described in the Specification in such a way as to enable one skilled in the art to which it pertains, to make and/or use the invention.

In response, the Applicant has herein cancelled claims 10 and 11. The Applicant has, however, added claims 12 and 13. New claim 12 claims that an abnormal region is classified as "belonging to the first group of types if evaluation of the abnormal region does only take a short time compared with the evaluation of the abnormal region in the second group of types and belonging to the second group of types else". New claim 13 claims that an abnormal region is classified as "belonging to a first group of types if the abnormalities of the detected signal are caused by the physical characteristics of the recording medium" and "belonging to a second group of types if the abnormalities of the detected signal are caused by erroneous data".

The Applicant submits that support for new claims 12 and 13 can be found throughout the Applicant's Specification and specifically, support for new claim 12 can be found in the Applicant's Specification on page 3, lines 15 – 26 and support for new claim 13 can be found in the Applicant's Specification, for example on page 3, lines 22 – 26. As such, the Applicant respectfully submits that no new matter has been added.

B. 35 U.S.C. § 102

The Examiner rejected the Applicant's claims 1-7 and 9-11 under 35 U.S.C. § 102(b) as being anticipated by Kuhn et al. (U.S. Patent No. 5,485,444, hereinafter "Kuhn"). The rejection is respectfully traversed.

The Examiner alleges that regarding claim 1, Dente teaches a method for track jump control for an optical recording medium including all of the steps and elements of the Applicant's invention. The Applicant respectfully disagrees.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann

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Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1983)) (emphasis added).

The Applicant submits that Kuhn fails to teach, suggest or anticipate each and every element of at least the invention as recited in the Applicant's amended claim 1, which specifically recites:

"Method for analyzing an abnormal region on an optical recording medium, including the steps of:

- detecting the abnormal region;
- measuring the radial extension of the abnormal region perpendicular to a track direction; and
- determining the type of the abnormal region based on the measured radial extension;

wherein the step of determining the type of the abnormal region includes **making a jump over the abnormal region perpendicular to the track direction** and obtaining information on the type of abnormal region during the jump. (emphasis added).

In contrast to the invention of the Applicant as claimed, the Applicant submits that Kühn discloses a finger print detection mechanism for detecting a type of defect of an optical recording medium. In Kuhn, a first type of defect is caused by a fingerprint and if this type of defect is detected, the user is informed (column 2, lines 38 – 46, column 6, lines 55 – 61). As a consequence, in case of the first type of defect, namely a fingerprint, the user is informed by means of a display (column 7, lines 15 - 21) and can remove the defect as a consequence by cleaning the disc. Kühn, however, absolutely fails to teach, suggest or disclose "**making a jump over the abnormal region perpendicular to the track direction**" as taught in the Applicant's Specification and as claimed by at least the Applicant's claim 1.

The invention of the Applicant, at least as claimed by amended claim 1, has the advantage that a valid track is found soon without scanning the whole invalid tracks. Further, in case a track is mirrored, the track guidance often can not be maintained and the track is lost during readout. Using a method according to the invention of the Applicant, a jump is made perpendicular to the erroneous track until a valid track region is found and guidance on this track can be maintained.

Therefore, the Applicant submits that, for at least the reasons recited above, Kuhn fails to teach each and every element of the claimed invention, arranged as in the claim as required for anticipation. As such, the Applicant respectfully submits that the

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Applicant's amended claim 1 fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Likewise, new independent claim 13 recite similar relevant features as recited in the Applicant's independent claim 1. More specifically, the Applicant submits that regarding new claim 13, Kühn absolutely fails to teach, suggest or anticipate differentiation of errors in a group caused by physical defects and a group caused by erroneous data. It is advantageous, as taught and claimed by the Applicant, to categorize the abnormal regions as such, because in the case an abnormal region of erroneous data is present, which is a wrong structure or a wrong bitrate region, this type of abnormal region can be processed with a specific processing means. As such, the Applicant submits that for at least the reasons recited above and for the reasons recited herein, independent claim 13 is also not anticipated by the teachings of Kuhn and also fully satisfy the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Furthermore, dependent claims 2-7 and 9-11 and new claim 12 depend either directly or indirectly from independent claim 1 and recite additional features therefor. In particular and regarding new claim 12, the Applicant submits that Kühn absolutely fails to teach, suggest or anticipate different types of errors, for example fingerprints, scratches and black dots (column 6, lines 55-61). Kuhn teaches categorizing errors in dependence of the number of error bursts, h , in a number of neighbouring tracks, however, Kühn does not teach, suggest or anticipate categorizing the different types of errors in dependence of the time it will consume to evaluate the defective region as taught and claimed by at least the Applicant's new claim 12. This feature of the Applicant's invention has the advantage that by first assuming an error, which can be processed fast, and only if this is not the case assuming an error of the second type, which can not be processed fast, the overall processing time is reduced. Further, by categorizing the abnormal regions this way, abnormal regions corresponding to the first type can be identified, for example, by a corresponding detector signal of a bottom-top detector. As such and for at least the reasons set forth herein, the Applicant submits that dependent claims 2-7 and 9-11 and new claim 12 are also not anticipated by the teachings of Kuhn. Therefore the Applicant submits that dependent claims 2-7 and 9-11 and new claim 12 also fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

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The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

C. 35 U.S.C. § 103

The Examiner rejected the Applicant's claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Kuhn in view of Mitarai (JP 54048213). The rejection is respectfully traversed.

The Examiner applied Kuhn to the Applicant's claim 8 as applied for the rejection of the Applicant's claim 1. As described above, Kuhn absolutely fails to teach, suggest or anticipate at least the Applicant's claim 1. As such, and at least because Kuhn fails to teach, suggest or anticipate the Applicant's claim 1, the Applicant further submits that Kuhn also fails to teach, suggest or anticipate the Applicant's claim 8, which depends directly from the Applicant's claim 1.

Even further, the Applicant submits that the teachings of Mitarai absolutely fail to bridge the substantial gap between the teachings of Kuhn and the Applicant's invention, at least with respect to the Applicant's claims 1 and 8. That is, the Applicant submits that Mitarai absolutely fails to teach, suggest or anticipate at least a method for analyzing an abnormal region on an optical recording medium including "wherein the step of determining the type of the abnormal region includes **making a jump over the abnormal region perpendicular to the track direction** and obtaining information on the type of abnormal region during the jump" as taught in the Applicant's Specification and claimed by at least the Applicant's claim 1.

In contrast to the invention of the Applicant, Mitarai merely teaches storing the position and the radial extension of an abnormal region on an optical recording medium (i.e., stores the presence or not, quantity, length, position, etc. of the defect areas). However, as previously asserted, the Applicant submits that Mitarai absolutely fails to bridge the substantial gap between the teachings of Kuhn and the invention of the Applicant.

Therefore, the Applicant submits that for at least the reasons recited above the Applicant's independent claim 1 is not rendered obvious by the teachings of Kuhn and Mitarai, alone or in any allowable combination, and, as such, fully satisfies the requirements of 35 U.S.C. § 103 and is patentable thereunder. As such and at least because the teachings of Kuhn and Mitarai, alone or in any allowable combination, fail

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to render obvious the invention of the Applicant's claim 1, the Applicant further submits that dependent claim 8, which depends directly from the Applicant's claim 1, is also not rendered obvious by the teachings of Kuhn and Mitarai, alone or in any allowable combination, and, as such, fully satisfy the requirements of 35 U.S.C. § 103 and is patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

Conclusion

Thus the Applicant submits that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. § 102 or rendered obvious under the provisions of 35 U.S.C. § 103. Furthermore, the Applicant also submits that all of these claims now satisfy the requirements of 35 U.S.C. §112. Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion, it is respectfully requested that the Examiner telephone the undersigned.

Please charge any unpaid, additional fees to Deposit Account No. 07-0832.

Respectfully submitted,

Peter Mahr

By:



Jorge Tony Villabon, Attorney
Reg. No. 52,322
(609) 734-6445

Patent Operations
Thomson Licensing Inc.
P.O. Box 5312
Princeton, New Jersey 08543-5312

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